IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.A No.24 of 1993

Decided on : October 3, 2007

State of H.P. **…Appellant.**

Versus

Partap Singh **…Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge.

Whether approved for reporting? No

For the Appellant : Mr. Som Dutt Vasudeva, Additional Advocate General.

For the Respondent : Mr. Rakesh Jaswal, Advocate.

Surjit Singh, Judge(Oral)

This appeal by the State is directed against the judgment, dated 18.2.1992, of the trial Magistrate, whereby respondent Partap Singh and his accomplice Barfi Ram, who were sent up for trial for an offence punishable under Section 326 read with Section 34 IPC, had been acquitted.

2. Respondent Partap Singh and his accomplice Barfi Ram allegedly appeared on a tractor at the site of the crime when PW-3 Radha Krishan offered respondent Partap Singh tea at a nearby tea-stall. This allegedly offended respondent Partap Singh and he, assisted by his accomplice Barfi Ram, gave a knife blow in the abdomen of PW-3 Radha Krishan. The incident was witnessed by a number of witnesses, including tea-stall owner.

3. Trail Magistrate charged the respondent and his accomplice with offence punishable under Section 326 read with

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Whether reporters of the local papers may be allowed to see the judgment?

Section 34 IPC and on their pleading not guilty put them on trial. At the end of the trial, respondent Partap Singh and his accomplice both were acquitted.

4. State filed the present appeal against respondent Partap Singh as also his accomplice. This Court granted leave to appeal only against respondent Partap Singh and admitted the appeal.

5. We have heard the learned Additional Advocate General.

6. Radha Krishan in his own statement as PW-3 did not name anybody as the person who stabbed him with a knife. He stated that there were 8-9 persons in the trolley of the tractor. In the cross-examination, he did state that the accused gave the knife blow but he did not name the accused. There were two accused on trial and, therefore, his statement cannot be said to pertain to respondent Partap Singh. All other eye-witnesses resiled from their earlier statements made to the police. They did not say that they saw the respondent or any other person giving knife blow to PW-3 Radha Krishan.

7. In view of the abovestated position, we see no reason to interfere with the judgment of acquittal passed by the trial Court. Hence, the appeal is dismissed.

(Surjit Singh), J

October 3, 2007(sd) **(Surinder Singh), J**